

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 18-10176-LTS

JASON COBB

DEFENDANT'S MOTION IN LIMINE TO PROHIBIT
REFERENCE TO "CHARACTERISTICS OF ARMED GUNMEN"

Defendant Jason Cobb respectfully moves that this Court prohibit any reference at trial to any officer's opinion that Mr. Cobb "exhibited signs consistent with an individual carrying a firearm."

As grounds for this motion, undersigned counsel states that the above-quoted phrase appears in the Boston Police Department report regarding Mr. Cobb's arrest, an excerpt of which is attached as Exhibit 1. The report then notes "that Officer Kennedy had attended the "Characteristics of an Armed Gunman" training several times."

Undersigned counsel had requested from the government information regarding this training and was prepared to seek to exclude it. Government counsel has advised defense counsel that the prosecution will not be introducing evidence about the training.

This assurance would be meaningless, however, if the government seeks to introduce – or the officers volunteer – that they believed Mr. Cobb to be carrying a firearm, especially where, as described in the police report, this belief was based on their "training and experience." Such an opinion would be expert testimony, subject to a 45-day advance notice requirement and disclosures required by Fed. R. Crim. P. 16(a)(1)(G). Deleting the phrase "training and

experience" does not cure the problem. Instead the officers would simply be offering their opinion without providing its basis. Of course, the officers can describe what they saw, but any testimony about the beliefs they formed based on their observations should be excluded.

JASON COBB
By his attorney,

/s/ Miriam Conrad

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CERTIFICATE OF SERVICE

I hereby certify that this document, filed through the ECF system, will be sent electronically to the registered Participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as nonregistered participants on November 27, 2018.

/s/ Miriam Conrad